

## Checklist for Determining Progress of State NPS Management Programs and Performance of CWA Section 319 Grants

**Note:** Pages or Tables referenced in the responses below were based in part on a July draft of the "Oregon Nonpoint Source Pollution Program 2015 Annual Report". It is possible that the page and table numbers referenced in this report do not align with the State's final annual report because of edits to the July draft.

### 1. Meeting Statutory and Regulatory Requirements and Demonstrating Water Quality Results

A. Section 319(h)(8) requires EPA to determine if a state has made satisfactory progress in meeting a schedule of annual milestones to implement its NPS management program.

i) *Does the state's NPS management program include relevant, up-to-date and trackable annual milestones for program implementation?*

Yes, [Oregon Department of Environmental Quality \(ODEQ\)](#) reports on the status of its NPS management plan directions, priorities, and milestones on pages 22-24 and in the Tables immediately following this narrative. Oregon also uses the annual 319 NPS workplan commitments to reflect more measurable milestones. These commitments are reflected in Oregon's Performance Partnership Agreement and are presented in the annual report in Tables called "2015-2016 *Performance Partnership Agreement NPS and 319 – Funded Related Water Quality Component*".

**Commented [CJ1]:** Is this the correct word?

**Commented [CJ2]:** Not sure where this is located. Do you mean Tables that follow the narrative section of Oregon's NPS management plan?

ii) If the state does not yet include up-to-date annual milestones in its NPS management program, in what document(s) is this schedule located?  
See recommendation described under 1.i.

iii) Has the state reported its progress in the annual report required under CWA section 319(h)(11) in meeting its milestone(s) for the preceding fiscal year?  
Yes. [This report contains several comprehensive tables that describe many measures of progress.](#)

**Commented [CJ3]:** This is where you might want to mention that the report in which you based this evaluation is the draft report and note why it is acceptable to accept the draft, when you are expecting the final report—such as....

The state reported its progress in the draft annual report in meeting its milestone(s) for 2015. This report provided sufficient information to address this component. Most of my comments on the draft report were editorial in nature (needing clarifications, formatting issues, etc.) and I anticipate receiving a final report by \_\_\_\_\_.

iv) Has the state demonstrated satisfactory progress in meeting its schedule of milestone(s) for the preceding fiscal year? Briefly elaborate. (If no, in accordance with CWA section 319(h)(8), the 319 grant award for the coming year cannot be awarded.)  
Yes. Although not all milestones were met, Oregon has made sufficient progress.

B. Section 319(h)(11) requires each state to report on an annual basis reductions in NPS pollutant loading and improvements in water quality.

i) For all active projects that have NPS reduction goals for nutrients or sediment, did the state report load reductions (WQ-9) into GRTS during the reporting period after the first year that practices were installed or implemented achieved?

[Yes, ODEQ entered nutrient and sediment reductions into GRTS by the deadline.](#) ODEQ modeled and entered the annual nitrogen, phosphorus and sedimentation-siltation reductions into GRTS. Table 9 on page 62 illustrates estimated NPS load reductions for the six 2015 319 funded projects.

**Commented [CJ4]:** I know this because Mary made sure all of our states entered this data before the deadline. I am not as confident about whether Oregon entered these reductions into GRTS "*during the reporting period after the first year that practices were installed or implemented achieved?*" Maybe Mary (Sturman) knows.

- ii) Has the state reported improvements in water quality that have occurred in the current reporting period resulting from implementation of its NPS management program and/or previous years' section 319(h) grant work plans? (e.g., reporting on SP-12 or other improvements such as shellfish bed and beach openings that have not yet led to attainment of water quality standards)?

ODEQ provided [WQ-10 making progress stories for Tillamook River and Kilchis River](#) based on trends showing detail discussion on the progress made in improving water quality in two of the WQ-10 waters that were added to the list in 2014. See Table 10. ODEQ also collected surface and ground water quality data to support TMDL development, GWMA assessments, annual ambient monitoring, pesticide stewardship programs and other activities. Analysis of the data occurred at the project level i.e., within a GWMA, as part of the development of a TMDL, or within the PSP area. However, a comprehensive analysis of change in water quality data relative to water quality project implementation was not completed. A key factor that prevented the analysis from being completed was that ODEQ's NPS program coordinator position and another key NPS position were vacant for the last year. It is anticipated that the NPS Coordinator position will be filled in December 2016 and that the other NPS staff will return this fall after a leave of absence.

Formatted: Font: (Default) Arial

~~Demonstrating water quality improvements due to restoration actions completed in addition to the staffing vacancies, completing this analysis~~ is challenging because ODEQ's Laboratory Analytical Storage and Retrieval (LASAR) database has not been functional since 2012. This impacts staff's ability to store, retrieve and analyze existing data and address the requirements of these measures. Recently ODEQ did produce a report titled "Business Case for DEQ Environmental Data Management System" which outlines the State's approach for addressing the database problem. Unfortunately, the report indicates it will take six years to establish a new data base system which will cost several million dollars. While EPA encourages ODEQ to move forward with a comprehensive approach to fixing the data management system, EPA also strongly encourages ODEQ to establish an interim data management system that allows state to store, retrieve and analyze all appropriate 319 data so Oregon can generate stories showing improved water quality due to restoration (as well as evaluating the impairment status of waters that could lead to Oregon submitting complete and timely lists of impaired waters and integrated reports).

Commented [CJ5]: Not sure this is necessary as the focus of monitoring would be to show water quality improvements in waters where restoration actions completed or BMPs have been installed.

- ii) Did the state meet its annual commitment/target/goal (if any) under WQ-10 to remove impaired waters from the 303(d) list?

Oregon has completed one WQ10 story, Diamond Lake, and five "showing progress" stories posted on EPA's website but Oregon did not develop any new WQ10 stories during 2015. [In 2015, ODEQ completed WQ-10 making progress stories for Tillamook River and Kilchis River. These stories had also been used to address SP12 in 2011 and 2013 respectively and ODEQ updated the information. Oregon did provide a thorough up-date on the most recent two WQ10 additions in Table 10 on page 64.](#) The updates demonstrate how the strength in partnerships led to implementation of a variety of BMPs and conservation practices moving closer to the goal of water quality standards attainment.

## 2. Overall GRTS Reporting

*For this question, it is sufficient to report on the results of previously conducted post-award grants monitoring. No additional monitoring may be needed.*

- A. To ensure that the state meets the reporting requirements in section 319(h)(11), did the state enter all mandated data elements into GRTS (including geolocational tags where available) for all applicable projects in the previous section 319 grant award?  
Yes

### **3. Focus on Watershed-Based Implementation**

*For this question, it is sufficient to document the results of previous findings, if this was determined during the Region's reviews of the state's active grant work plans.*

- A. Is the state implementing nine-element watershed-based plans – or approved alternative plans - at required grant expenditure levels in accordance with EPA's guidelines for CWA section 319(h) grants? That is, in fiscal year 2015 and subsequent years, was 50% of the state's grant used to implement watershed based plans, unless the state provided state funding for watershed projects equal to its total section 319 allocation? If no, please explain.

ODEQ uses its 319 award to support Performance Partnership Grants (PPG) and grants to implement watershed based plans. In recent years, the majority of the funds were directed to support the PPG, so less than 50% of the state's grant was used to implement watershed based plans. In FY 2016, ODEQ's award was reduced by 30% because the State failed to provide an approvable Coastal Nonpoint Pollution Control Program. The "penalty" was taken from the portion of the funding targeted for pass through grants because the funding for the PPG supports key staff to implement the State's NPS Program. Without funding NPS staff, it would be difficult to implement a pass-through grant program. Consequently, in FY 2016, it is estimated that only 20% of this year's award will be used for implementing watershed based plans. On September 21, 2016, ODEQ submitted a waiver request for the 50% spending requirement and is suggesting that it will explore applying for a "leverage" exemption from this requirement in FY 2017. In Oregon, the Oregon Watershed Enhancement Board (OWEB), an established state agency, funds over \$60 million in watershed restoration projects each biennium. Projects funded often address nonpoint source water quality issues that support water quality standards and beneficial uses. OWEB is funded primarily by the State's Lottery Program.

**Commented [CJ6]:** May want to note that in Oregon uses an alternative to the watershed based plans which are comprised of a combination of documents including Water Quality Management Plans, TMDLs and sector specific TMDL implementation plans developed by various agencies.

EPA is considering ODEQ's waiver request and will likely support it based on the impact of the CZARA penalty. EPA is also planning to work with ODEQ over the next year to determine the possibilities of the State obtaining a "leverage exemption" to the 50% allocation of funds towards implementing watershed based plans or the approved alternative plans spending requirement.

### **4. Ensuring Fiscal Accountability**

*For this section, it is sufficient to briefly report on the results of previously conducted grants management and oversight required of all grants.*

- A. **Tracking and Reporting.** For all active section 319(h) grants, using existing post-award monitoring or best professional judgment:

- i) Is the state's RFP process efficient and timely for selecting and funding projects within the work plan timeframe?

In FY 2015<sup>56</sup> the RFP process was delayed because the amount of the CZARA penalty was not determined until early summer. Consequently, this impacted the timely development of the State's Intended Use Document (IUD). The IUD contains the work plans for projects selected for 319 funding.

- ii) Did the State obligate all of the section 319(h) funds in the previous year's award within one year per current section 319 grant guidelines?  
Yes

**Commented [CJ7]:** This report pertains to 2015. Was the RFP delayed due to the special grant award condition or did they hold a timely RFP but did not fund the projects until they received notice in spring 2016 that 30% would be redistributed to other states with approved coastal nonpoint programs.

- B. *Rate of Expenditures.* For categorical grants, include and examine a summary of expenditures for all open section 319 grant awards listing the following: state; grant #; FY; project period; grant award amount; balance (unliquidated obligation); percent unliquidated obligation. This information could also be obtained from other EPA tools such as GRTS or the Post Award Baseline Tracking Tool. Include a state total of grant award amount, balance and percent unliquidated obligation. Please reference the source and date of information used to answer the question below.

*Note: This analysis is not required for section 319 funds incorporated into a PPG.*

| CWA Section 319(h) Funds, Rates of Expenditures (Unliquidated Obligations) |               |    |          |   |          |                  |                   |               |
|--|---------------|----|----------|---|----------|------------------|-------------------|---------------|
| Based on Compass Federal Data Warehouse Online on July 7, 2015             |               |    |          |   |          |                  |                   |               |
|  | Grant #       | FY | Projec   |   | Period   | Grant Award      | Balance (ULO)     | % ULO         |
| OR   | C900045111    | 11 | 07/01/11 | - | 12/31/15 | \$ 1,111,832     | \$ 5,652          | .5%           |
| OR   | C900045112    | 12 | 07/01/12 | - | 12/31/15 | \$ 905,000       | \$ 99,526         | 10%           |
| OR   | C900045113    | 13 | 07/01/13 | - | 06/30/18 | \$ 756,508       | \$ 154,091        | 20%           |
| OR   | C900045114    | 14 | 07/01/14 | - | 06/30/19 | \$ 764,463       | \$ 356,154        | 46%           |
| OR   | C900045115    | 15 | 07/01/15 | - | 06/30/20 | \$ 80,851        | \$ 80,851         | 100%          |
| OR   | <b>Total:</b> |    |          |   |          | <b>\$3618654</b> | <b>\$ 696,724</b> | <b>19.25%</b> |

**Commented [CJ8]:** Probably need to explain this one.

- i.) Relying on best professional judgment, do the figures in the Rate of Expenditures chart substantially match the expected drawdown rates or the negotiated outlay strategy from the associated grant work plan schedules? If not, briefly explain.

Yes except for FY15 grant which shows no drawdowns. These grants use the watershed project funds to fund on-the-ground projects. FY 2015 funding to subgrantees for these projects was held up because of a special award condition restricting access to 30% of the 319 funding. Rather using the remaining funds for some projects, the state decided to wait and see if EPA would release these funds. During spring 2016, EPA implemented the CZARA decision to withhold 30% of 319 funds.

**Commented [CJ9]:** I believe you need to explain why the grant started on 7/1/2015 shows no drawdowns. Is this explanation accurate?

## 5. PPG Considerations

For states that include section 319 funds in Performance Partnership Grants (PPGs), briefly report on the following.

- A. Has the state followed the goals, objectives and measures of the national program guidelines and priorities in implementing its NPS program? If not, did the state negotiate with the EPA region a work plan that differs significantly from the National Program Manager (NPM) guidance? (If yes, the EPA Region was required to consult with the NPS NPM.) Please explain.

Yes, the state followed the goals, objectives and measures of the national program guidelines and priorities, as shown in both the annual NPS progress report and ODEQ's final performance report for the Water Quality component of the 2012-2014 ODEQ-EPA Performance Partnership Grant. The PPG workplan pertaining to the NPS program aligns with the NPM guidance.

- B. Using best professional judgment, has the state adequately documented progress consistent with its listed priorities?

Yes, Oregon adequately documented progress consistent with its own priorities [and national priorities](#) during 2015. See Table 8- in the Annual Report.

#### 6. Identifying and Addressing Performance Issues/Progress Concerns

- A. Considering issues itemized on this checklist, briefly summarize any significant outstanding section 319 grant performance issues or progress concerns, including recommendation(s) for corrective action(s). For states with out-of-date NPS management programs or schedule of milestones, Regions are to ensure that forthcoming section 319 grant awards are contingent on completing updates to these programs or milestones.

- Because Oregon has decided to use the 319 NPS workplan commitments to reflect more measurable milestones and these commitments are reflected in Oregon's Performance Partnership Agreement, Oregon should continue to include the table *Performance Partnership Agreement NPS Pollution Control Commitments* in its annual NPS progress report and add a column that addresses the status of each commitment. Oregon's annual commitments through its workplan should be measurable, such as number of WQ10 stories.
- Documenting water quality progress as a result of restoration (through measures such as WQ10) is a key priority of the national NPS program. Oregon stopped using its Laboratory Analytical Storage and Retrieval (LASAR) database on December 1, 2012. A recent report by ODEQ titled "Business Case for DEQ Environmental Data Management System (EDMS)" indicates that it may take up to six years before the EDMS is completed. As such ODEQ should be establishing an interim approach for data management. A data repository such as LASAR is key to Oregon addressing the requirements of these performance measures. EPA encourages ODEQ to move as quickly as possible to set up a new database, or an interim approach for data management. ODEQ should enter and analyze all appropriate data into a data management system so Oregon can generate stories showing improved water quality due to restoration (as well as evaluating the impairment status of waters that could lead to Oregon submitting thorough and timely lists of impaired waters and integrated reports).
- States must use at least 50% of the annual appropriation of § 319 funds (watershed project funds) to implement watershed projects guided by watershed based plans. Usually this plan implementation is conducted by entities funded by ODEQ through its 319 grant program. In FY 2015<sup>6</sup>,

ODEQ's award was reduced by 30% because the State failed to provide an approvable Coastal Nonpoint Pollution Control Program. The "penalty" was taken from the portion of the funding targeted for pass through grants because the funding for the PPG supports key staff to implement the State's NPS Programs. Without funding NPS staff, it would be difficult to implement a pass-through grant program, and other components of the state's NPS program. Consequently, in FY 2016, it is estimated that only 20% of this year's award will be used for implementing watershed based plans. On September 21, 2016, ODEQ submitted a waiver request for the 50% spending requirement. ~~Oregon should -and is suggesting that it will-~~ explore applying for a "leveragen" exemption from this requirement in FY 2017. In Oregon, the Oregon Watershed Enhancement Board (OWEB), an established state agency, funds over \$60 million in watershed restoration projects each biennium. Projects funded often address nonpoint source water quality issues that support water quality standards and beneficial uses. OWEB is funded primarily by the State's Lottery Program. ODEQ want to access the opportunities for including projects like OWEB's, to be counted as watershed plan implementation actions.

- B. Are there other significant outstanding section 319 grant performance issues or progress concerns that were not identified through this checklist? If so, please describe, including any recommendation(s) for corrective action(s), as may be appropriate.
- Oregon should consider revising the format of its annual NPS reports to be more concise. The current format includes far more information that is needed for EPA's purposes. EPA would be happy to meet with ODEQ to discuss refinements on this report.
  - ODEQ should establish a firm schedule for accomplishing actions needed in the 319 application process including a schedule for submitting the annual report, the intended use document and other appropriate documents.
  - ODEQ needs to fill the existing 319 program vacancies or re-assign existing 319 related tasks to existing staff to ensure timely completion of 319 related products.

**Commented [CJ10]:** Perhaps you should suggest a date such as draft annual report should be submitted to EPA during April.